THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.

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SCHEDULE.

BOMBAY ACT No. XXVI OF 1938.[1]

[THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.]

[*1st March 1939.*]

Amended by Bom. 33 of 1949.

An Act to regulate the qualifications and to provide for the registration of practitioners of Indian systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally in the Province of Bombay.

WHEREAS it is expedient to regulate the qualifications and to provide for the registration of practitioners of the Indian systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act shall be called the Bombay Medical Practitioners' Act, 1938.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) Parts I and II of this Act shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint. Part III shall come into force in all municipal, cantonment and notified areas in the province on the expiry of two years and in all other areas on the expiry of five years from the date on which Parts I and II come into force in the respective areas.

PART II.

INDIAN SYSTEMS OF MEDICINE.

Definitions.

2. In this Part of the Act, unless there is anything inconsistent in the subject or context,—

(*1*) "Board" means the Board of Indian systems of medicine, Bombay, established and constituted under section 3.

[2][(*1A*) "By-law" means a by-law made under section 28-A.

(*1-B*) "Faculty" means the Faculty of Indian systems of medicine, Bombay, established and constituted under section 3-A.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp.273-277; for Report of the Select Committee, *see Bombay Government Gazette*, 1938, Part V, pp. 512-523; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 3, Part II, pp. 1455-1500, 1523-1552, 1577-1582, Vol. 4, *ibid*, pp. 32-36, 1450, 3843-3899 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 192-195 Vol. 5, *ibid*, pp. 252-273 and 275-324 and 344.

[2] These clauses were inserted by Bom. 33 of 1949, s. 2.

(*2*) "Indian systems of medicine" means the Ayurvedic (including the Siddha) and the Unani Tibbi systems of medicine, whether supplemented or not by such modern advances as the [1][Faculty] may from time to time have determined.

(*3*) "Inspector" means an Inspector appointed by the [1][Faculty] under section 22.

[2][(*3A*) "List" means a list of practitioners prepared and kept under section 18.]

(*4*) "Part" means a Part of this Act.

(*5*) "Practitioner" means practitioner of the Indian system of medicine.

(*6*) "President" means the President of the Board.

(*7*) "Qualifying Examination" means [3][an examination specified in the Schedule].

[4][(*7A*) 'Recognised Institution" means an institution recognised under section 21-A.

(*7B*) "Refugee" means a person who has been registered under section 4 of the Bombay Refugees Act, 1948.] Bom. XXII of 1948.

(*8*) "Register" means the Register of practitioners maintained under section 15.

(*9*) "Registered practitioner" means a practitioner whose name is for the time being entered in the Register.

(*10*) "Registrar" means the Registrar appointed under section 14.

[4][(*10A*) "Registration Tribunal" means a tribunal appointed under section 31A.]

(*11*) "Regulations" means regulations made under section 30.

(*12*) "Rules" means rules made under section 29.

[4][(*13*) "Schedule" means the Schedule appended to this Act.]

Establishment, constitution and incorporation of the Board.

3. (*1*) Subject to the provisions of section 31, the Provincial Government shall by notification in the *Official Gazette* establish a Board to be called "the Board of Indian Systems of Medicine, Bombay." [5] * * Such Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued.

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[1] This word was substituted for the word "Board" by Bom. 33 of 1949, s. 2.

[2] This clause was inserted, *ibid.*

[3] These words were substituted for the words "the examination held for the purpose of granting a diploma conferring the right of registration under this Act", *ibid.*

[4] These clauses were inserted, *ibid.*

[5] The words "for the purpose of carrying out the provisions of this Part" were deleted, *ibid.*

(*2*) The Board shall consist of [1][fourteen] members, who shall be appointed in the following manner, namely :—

[2][(*i*) A President nominated by the Provincial Government;

(*ii*) Five members nominated by the Provincial Government, out of whom—

(*a*) one shall be a person residing in the Province or in areas over which the Provincial Government has jurisdiction under the Extra Provincial Jurisdiction Act, 1947, and practising in the Ayurvedic (including Siddha) system of medicine, and

XLVI of 1947.

(*b*) one shall be a person residing in the Province or areas referred to in clause (*a*) and practising in the Unani Tibbi system of medicine;

(*iii*) Six members elected by the registered practitioners from amongst themselves; and

(*iv*) Two members elected by the Faculty who shall be persons other than those appointed under any of the preceding clauses.]

(*3*) The seats of members elected under clause (*iii*) of sub-section (*2*) shall be so divided amongst the Ayurvedic and Unani registered practitioners as to be in the proportion of their numbers on the Register on the date of the election:

Provided that in determining the said proportion a fraction of one-half and less shall be neglected and a fraction of more than one-half shall be counted as one:

[3][* * * * * * *]

[3][* * * * * * *]

[3][* * * * * * *]

[4][3A. There shall be a Faculty of Indian Systems of Medicine, Bombay. The Faculty shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued. The Faculty shall consist of fourteen members appointed in the following manner, namely :— Faculty.

(*1*) The President shall be the ex-officio chairman;

(*2*) Six members nominated by the Provincial Government out of whom at least two shall be registered practitioners;

(*3*) Two members elected from amongst themselves by the principals or heads of recognised institutions:

Provided that at least one of them shall be a person who holds any of the qualifications specified in the Schedule.

(*4*) Three members elected from amongst themselves by recognised teachers (other than the principals or heads of institutions) in recognised institutions:

Provided that such teachers have been on the roll of a recognised institution for a period of one year immediately preceding the day appointed for election by the Provincial Government in this behalf:

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[1] This word was substituted for the word "thirteen" by Bom. 33 of 1949, s. 3.
[2] These clauses were substituted for the original, *ibid.*
[3] The second proviso to sub-section (*3*) and sub-section (*4*) and the Explanation were deleted, *ibid.*
[4] This section was inserted, *ibid.*, s. 4.

Provided also that out of the three members so elected by such teachers, at least one shall be a registered practitioner, and another who shall hold any of the qualifications specified in the Schedule.

(*5*) Two members elected by the Board who shall be persons other than those appointed under any of the preceding clauses, but one of whom shall be a registered practitioner in the Unani Tibbi system :

Provided that—

(*a*) if there are one or more recognised institutions giving instruction in the full course of Unani Tibbi system, the number of members to be elected under clause (*3*) shall be three, one of whom shall be the principal or head of such institution, the total number of the members of the Faculty being in that case increased to fifteen ;

(*b*) the Faculty shall always contain at least two members who are entitled to represent the Unani Tibbi system under this section.

Explanation.—If any question arises whether a particular person is entitled to represent the Unani Tibbi system, the decision of the Provincial Government shall be final.]

Nomination of members in default of election.

4. If any of the members is not elected under [1][section 3 or 3A], the Provincial Government may [2]* * * nominate such registered practitioners as they deem fit and the practitioners so nominated shall for the purposes of this Part be deemed to have been duly elected under [1][section 3 or 3A, as the case may be].

Election of members.

5. The election of practitioners entitled to be the members of the Board [3][and the Faculty] shall be held at such time and place and in such manner as may be prescribed by rules :

[4][Provided that in the case of the members of the Faculty to be elected by the Board and of the members of the Board to be elected by the Faculty the other members of the Board or the Faculty, as the case may be, shall, as soon as may be, after their election or nomination, meet to hold the election.]

Term of office.

6. (*1*) Save as otherwise provided by this Part—

[5][(*a*)] the term of office of elected and nominated members [6][of the Board] shall be for a period of five years commencing from the date on which the first meeting of the Board is held after the members are elected under sub-section (*2*) of section 3 ;

[7][(*b*) the term of office of elected and nominated members of the Faculty shall expire on the date on which the term of the Board expires under this section.]

(*2*) An outgoing member shall continue in office until the election or nomination of his successor, as the case may be.

(*3*) The outgoing member shall be eligible for renomination or re-election.

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[1] These words, figures and letter were substituted for "clause (*iii*) of sub-section (*2*) of section 3" by Bom. 33 of 1949, s. 5.

[2] The words "notwithstanding anything contained in sub-section (*2*) of the said section" were deleted, *ibid.*

[3] These words were substituted for "under clause (*iii*) of sub-section (*2*) of section 3," *ibid.*, s. 6.

[4] This proviso was added, *ibid.*, s. 6.

[5] The brackets and letter "(*a*)" were inserted, *ibid.*, s. 7.

[6] These words were inserted, *ibid.*

[7] This clause was substituted for the proviso, *ibid.*

Vacancies.

7. If a vacancy occurs in the office of a member of the Board [1][or the Faculty] through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed by rules. Any person nominated or elected to fill the vacancy shall, notwithstanding anything contained in section 6, hold office only so long as the member in whose place he is nominated or elected, would have held office if the vacancy had not occurred.

Resignation of a member.

8. Any member [2][of the Board or the Faculty] may at any time resign his office by letter addressed to the President [2][or the Chairman, as the case may be]. Such resignation shall take effect from the date on which it is received by the President [2][or the Chairman, as the case may be.]

Disabilities for continuing as member.

9. If any member, during the period for which he has been nominated or elected,—

(*a*) absents himself without such reasons as may in the opinion of the Board [3][or the Faculty] be sufficient, from three consecutive ordinary meetings of the Board [3][or the Faculty], or

(*b*) becomes subject to any of the disqualifications mentioned in section 10, the Board [3][or the Faculty, as the case may be,] shall declare his office to be vacant.

Disqualifications.

10. No person shall stand as a candidate for election as a member of the Board [4][or the Faculty] or shall be a member of the Board [4][or the Faculty],—

(*a*) who is an undischarged insolvent,

(*b*) who has been adjudicated by a competent Court to be of unsound mind, or

(*c*) whose name has been removed from the Register.

Validity of proceedings.

11. No disqualification of or defect in the election or nomination of any person acting as a member of the Board [4][or the Faculty] or as the President, [5][or Chairman] or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Board [4][or the Faculty, as the case may be], in which such person has taken part.

Time and place of meeting of Board [6][and Faculty.]

12. [7][The Board or the Faculty shall meet] at such time and place and [7][every meeting of the Board and the Faculty] shall be summoned in such manner as may be prescribed by regulations [8][or by-laws, as the case may be]:

Provided that until [7][such regulations or by-laws] are made, it shall be lawful for the President [9][or the Chairman] to summon a meeting of [7][the Board or the Faculty, as the case may be,] at such time and place as he may deem expedient by letter addressed to each member.

Procedure at meetings of Board [10][and Faculty].

13. (*1*) The President shall preside at every meeting of the Board. In the absence of the President the members present shall elect one of them to preside.

[11][(*1A*) The Chairman shall preside at every meeting of the Faculty. In the absence of the Chairman the members present shall elect one of them to preside.

(*2*) All questions at a meeting of the Board [12][or the Faculty] shall be decided by the votes of the majority of the members present at the meeting. Eight members shall form a quorum. No quorum shall be necessary for a meeting adjourned for want of a quorum.

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[1] These words were inserted by Bom. 33 of 1949, s. 8.
[2] These words were inserted, *ibid.*, s. 9.
[3] These words were inserted, *ibid.*, s. 10.
[4] These words were inserted, *ibid.*, ss. 11 and 12.
[5] These words were inserted, *ibid.*, s. 12.
[6] These words were added, *ibid.*, s. 13.
[7] These words were substituted for the original, *ibid.*
[8] These words were added, *ibid.*
[9] These words were inserted, *ibid.*
[10] These words were added, *ibid.*, s. 14.
[11] This sub-section was inserted, *ibid.*
[12] These words were inserted, *ibid.*

(3) At every meeting of the Board [1][or the Faculty] [2][the person presiding] for the time being shall, in addition to his vote as a member of the Board [1][or the Faculty], have a second or casting vote in case of an equality of votes.

Powers and functions of Board.

[3][**13A.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Board shall be,—

(*a*) to appoint the Registrar and other officers and servants and to fix their salaries and allowances;

(*b*) to provide for the registration of practitioners and entry of their names in the list under this Act;

(*c*) to reprimand a registered practitioner or a practitioner whose name is entered in the list or to suspend or remove him from the register or list and to take such other disciplinary action against him as may, in the opinion of the Board, be necessary or expedient;

(*d*) to hear and decide appeals from the decisions of the Registrar.]

Powers and functions of Faculty.

[3][**13B.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Faculty shall be—

(*a*) to prescribe the course of training and the standard and subjects of qualifying examinations including the course of training and examinations prior to such qualifying examinations;

(*b*) to hold qualifying examinations and other examinations, to appoint examiners, to fix their fees and allowances and to declare the results of examinations;

(*c*) to grant degrees, honoraria, diplomas, licences and marks of honour;

(*d*) to award stipends, scholarships, medals, prizes and other rewards;

(*e*) to recommend recognition to institutions for the purpose of giving instruction in the Indian Systems of Medicine or to recommend their cancellation;

(*f*) to prepare, publish and prescribe text books and to publish statements of prescribed courses of study;

(*g*) to provide for the maintenance of an adequate standard of proficiency for the practice of the Indian Systems of Medicine;

(*h*) to found and maintain a library;

(*i*) to recommend schemes for post-graduate training and research in the Indian Systems of Medicine;

(*j*) to provide for the inspection of institutions and to require institutions giving instruction in the Indian Systems of Medicine to furnish such information as may be necessary;

(*k*) to appoint Inspectors and such other Officers and servants as may be necessary;

(*l*) to appoint any committees or boards of studies as may be necessary and to lay down their constitution, duties and functions. Such committees or boards may contain members who are not members of the Faculty.]

Other powers and functions of Board and Faculty.

[3][**13C.** The Board and the Faculty shall also exercise such other powers and perform such other functions as may be prescribed by or under this Act, or as the Provincial Government may direct for carrying out the purposes of this Act.]

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[1] These words were inserted by Bom. 33 of 1949, s. 14.
[2] These words were substituted for the words "the president", *ibid.*
[3] Sections 13A, 13B and 13C were inserted, *ibid.*, s. 15.

Registrar.

14. (*1*) The Board shall, with the previous approval of Government, appoint a Registrar. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Board may from time to time grant him leave and may appoint a person to act in his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all the purposes of this Act :

[1][Provided that where the period of leave to be granted to the Registrar does not exceed one month, the President may grant such leave.]

(*2*) Any order of the Board appointing, punishing or removing a Registrar from office shall not be passed without the previous approval of the Provincial Government.

(*3*) The Board may appoint such other officers and servants as may be necessary for the purposes of this Act :

Provided that the number and designations of such officers and servants, their salaries and allowances shall be subject to the previous approval of the Provincial Government.

(*4*) The Registrar and any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Duties of Registrar.

15. (*1*) Subject to the provisions of this Part and subject to any general or special orders of the Board, it shall be the duty of the Registrar to keep the Register [2][and the list. It shall also be the duty of the Registrar to attend the meetings of the Board and the Faculty and to perform generally the duties of the Secretary to both the said bodies.]

(*2*) The Register shall be in such form as may be prescribed by rules. The Register shall be divided into two parts :—

(*i*) that containing the names of practitioners qualified to practise the Ayurvedic system ; and

(*ii*) that containing the names of practitioners qualified to practise the Unani system.

The Register shall contain the names, residence and qualifications of every practitioner registered together with the date on which such qualification was acquired.

(*3*) The Registrar shall keep the Register correct as far as possible and may from time to time enter therein any material alteration in the address or qualifications of the practitioners. The names of registered practitioners who die or whose names are directed to be removed from the Register under sub-section (*3*) of section 16 shall be removed from the Register.

(*4*) The Provincial Government may direct that any alteration in the entries as respects additional qualification shall not be made unless on payment of such fee as may be prescribed by rules.

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[1] This proviso was added by Bom. 33 of 1949, s. 16.

[2] These words were added, *ibid.*, s. 17.

(5) For the purpose of this section the Registrar [1][may at any time] write by registered post to any registered practitioner at the address which is entered in the Register to inquire whether he has ceased to practise or has changed his residence and if no answer is received to the said letter within six months, the Registrar may remove the name of the said practitioner from the Register. [2][Such inquiry shall be made at least once one year before the term of office of the members of the Board is about to expire :]

Provided that the Board may, if it is satisfied that the said practitioner has not ceased to practise, on the application of the said practitioner, direct that his name be re-entered in the Register.

Registration.

16. (1) Every person who passes a qualifying examination shall on payment of a fee of Rs. 10 be entitled to have his name entered in the Register.

[3]* * * * * *

(3) The Board may direct that the name of any practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, V of 1898, which discloses such defect of moral character as is, in the opinion of 1898. the Board, sufficient to make him unfit to practise his profession or who, after due inquiry, has been found guilty of conduct, which is in the opinion of the Board infamous in any professional respect, shall be removed from the Register. The Board may, on sufficient cause being shown, also direct that the name of the practitioner so removed shall be re-entered in the Register.

Appeal to Board from the decision of Registrar.

17. (1) Any person aggrieved by the decision of the Registrar regarding the registration of any person or any entry in the Register may appeal to the Board.

(2) Such appeal shall be filed and shall be heard and decided by the Board in the manner prescribed by the rules.

(3) The Board may on its own motion or on the application of any person, after due and proper enquiries and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the Register, if, in the opinion of the Board, such entry was fraudulently or incorrectly made.

Maintenance of list of persons in practice on 10th March 1938.

18. (a) The Registrar shall also prepare and keep a list called "a list of persons in practice on the 10th March 1938."

(b) Every person not being a person qualified for registration under this Act or under the Bombay Medical Act, 1912, who, within a period of two years Bom. from the date from which this Part comes into force, proves to the satisfaction V of 1912. of the Registrar that he has been in regular practice in this province, on the 10th March 1938, of any system of medicine or surgery or midwifery or any of their branches shall be entitled to have his name entered in the aforesaid list on payment of Rs. 10 :

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[1] These words were inserted by Bom. 33 of 1949, s. 17.

[2] This portion was added, *ibid.*

[3] Sub-section (2) was deleted, *ibid.*, s. 18.

Provided, however, that any person whose name has been removed from the Register kept under the Bombay Medical Act, 1912, or the Register kept under an Act of a Provincial Legislature in British India or from the register of any country where he was] formerly practising, for infamous conduct in a professional respect, shall not be entitled to have his name entered in the list.

Bom. VI of 1912.

(*c*) The provisions of sub-sections (*3*) and (*5*) of section 15, sub-section (*3*) of section 16, and section 17 shall *mutatis mutandis* apply to this list.

[1][**18A.** (*1*) Notwithstanding anything contained in section 16 or 18, the Board may direct that a renewal fee of such amount as may be approved by the Provincial Government shall be paid by each practitioner for the continuance of his name on the Register or list, as the case may be. Renewal fee.

(*2*) If the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the Register or list, as the case may be :

Provided that the name so removed may be re-entered in the Register or list on payment of the renewal fee in such manner and subject to such conditions as may be prescribed.]

19. Notwithstanding anything in any law for the time being in force— Qualified practitioners' certificates.

(*1*) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as a medical practitioner or member of medical profession shall in all Acts of Legislature in the Province of Bombay and in all Acts of the Central Legislature (in their application to the Province of Bombay) in so far as such Acts relate to any of the matters specified in List II or List III in the Seventh Schedule to the Government of India Act, 1935, include a registered practitioner;

26 Geo. V, Ch. 2.

(*2*) A certificate required by any Act from any medical practitioner or medical officer shall be valid, if such certificate has been signed by a registered practitioner;

(*3*) a registered practitioner shall be eligible to hold any appointment as a Physician, Surgeon or other medical officer in any Ayurvedic or Unani dispensary, hospital, infirmary or lying-in-hospital supported by or receiving a grant from the Provincial Government and treating patients according to the Indian systems of medicine or in any public establishment, body or institution dealing with such systems of medicine.

20. Every Registrar of Deaths on receiving notice of the death of a registered practitioner shall forthwith transmit by post to the Registrar a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificates and transmission as an expense of his office. Notice of death.

21. [2][Save as otherwise provided by the provisions of this Act] [3][the name of any person] shall not be entered in the Register as a registered practitioner, unless he has passed a qualifying examination. Examination before registration.

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[1] This section was inserted by Bom. 33 of 1949, s. 19.

[2] These words were substituted for "Notwithstanding anything contained in section 16 on and after the expiry of two years from the date from which this Act comes into force," *ibid.*, s. 20.

[3] These words were substituted for the words "a person", *ibid.*

Recognition of Institutions.

[1][21A. (*1*) Any institution applying for recognition under this Act shall send an application to the Registrar and shall give full information in respect of the following matters :—

(*a*) the constitution and personnel of the managing body ;

(*b*) subjects and courses in which it gives or proposes to give instruction ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their salaries, qualifications and the research work made by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*2*) The Registrar shall place the application before the Faculty and the Faculty may direct the Registrar to call for any further information which it may deem necessary. The Faculty may also direct a local inquiry to be made by a competent person or persons authorized by it in this behalf.

(*3*) After recording the report of such local inquiry and after making such further inquiry as may be necessary, the Faculty shall forward the application together with its report to the Provincial Government stating its opinion whether the recognition asked for should or should not be granted. The Provincial Government may thereupon grant or refuse the recognition or may grant it subject to such conditions as it deems fit. The decision of the Provincial Government shall be final.]

Qualifying examination.

22. (*1*) The [2][Faculty shall by by-laws] prescribe the course of training and qualifying examinations including the course of training and examinations prior to qualifying examinations. [2][Such by-laws] shall provide that instruction and examinations shall, as far as possible, be given or held in any of the Indian languages spoken in the Province.

(*2*) A qualifying examination shall be an examination in the Indian systems of medicine including the subjects of medicine, surgery and midwifery held [3][by the Faculty] for the purpose of granting [3][a degree or] a diploma conferring the right of registration under this Part [4][and specified in the Schedule ; and such other examination as may on the recommendation of the Faculty be included in the Schedule by the Provincial Government by a notification in the *Official Gazette* from and after the date specified in the notification.]

(*3*) It shall be the duty of [5][the Faculty] to secure the maintenance of an adequate standard of proficiency for the practice of the Indian systems of medicine including the subjects of medicine, surgery and midwifery. For the purpose of securing such standard, [5][the Faculty] shall have authority to call on the governing

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[1] This section was inserted by Bom. 33 of 1949, s. 21.

[2] These words were substituted for the original., *ibid*, s. 22.

[3] These words were inserted, *ibid*.

[4] This portion was substituted for the original, *ibid*.

[5] These words were substituted for the words "the Board", *ibid*.

body or authorities [1][of any body or institution] giving instruction in the Indian systems of medicine and [2][on any body or institution recognised to hold a qualifying examination under sub-section (*2*) or holding a qualifying examination specified in the Schedule,]—

(*a*) to furnish such particulars as [3][the Faculty] shall require of any course of study prescribed [4][by by-laws or examination held by such body or institution] with reference to the grant of any qualification; and

(*b*) to permit Inspectors [5][or any member or visitor] appointed by [3][the Faculty] from among the Registered practitioners in this behalf to attend and be present at all or any of the qualifying or prior examinations.

(*4*) The [6][Inspectors, members or visitors] shall not interfere with the conduct of any examination, but it shall be their duty to report to [3][the Faculty] their opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in relation to such examinations on which [3][the Faculty] may require them to report.

(*5*) Every qualifying examination and every prior examination leading up to it held by the bodies or institutions authorized under this section shall be inspected by [7][the Inspectors, members or visitors] at least once in [8][five] years and more frequently if [3][the Faculty] directs.

(*6*) [3][The Faculty] shall forward a copy of every such report to the body which held the examination in respect of which the said report was made and shall also forward a copy of such report, together with any observations thereon made by the said body, to the Provincial Government.

(*7*) An Inspector, [9][a member or a visitor] shall receive such remuneration to be paid as part of the expenses of [3][the Faculty], as [3][the Faculty], with the previous sanction of the Provincial Government, may determine.

Power of Faculty to include other examinations in Schedule.

[10][**22A.** If it shall appear to the Provincial Government on the report of the Faculty or otherwise that the course of study and examinations prescribed by any body or institution conferring a qualification for an examination not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Provincial Government from time to time by notification in the *Official Gazette* to direct that the possession of such qualification shall, subject to the provisions of this Act, entitle a person to be so registered under this Part and to include in the Schedule any examination relating to such qualification as a qualifying examination from and after the date specified in the notification.]

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[1] These words were substituted for the words "of any institution" by Bom. 33 of 1940, s. 22.

[2] This portion was substituted for the original, *ibid.*

[3] These words were substituted for the words "the Board", *ibid.*

[4] These words were substituted for the words "by regulations or examination held by such body or authority or in such school or college", *ibid.*

[5] These words were inserted, *ibid.*

[6] These words were substituted for the words "Inspectors", *ibid.*

[7] These words were substituted for the words "the Inspectors", *ibid.*

[8] This word was substituted for the word "three", *ibid.*

[9] These words were inserted, *ibid.*

[10] This section was inserted, *ibid.*, s. 23.

Removal of institutions authorized to hold qualifying examinations.

23. If it shall appear to the Provincial Government on the report of [1][the Faculty or otherwise] that the course of study and examinations prescribed by any [2][of the bodies or institutions recognised to hold qualifying examinations under sub-section (*2*) of section 22 or holding examinations specified in the Schedule] are not such as to secure the maintenance of an adequate standard of proficiency for the practice of the Indian systems of medicine including the subject of medicine, surgery or midwifery, as the case may be, it shall be lawful for the Provincial Government from time to time [3][to direct that the recognition of any body or institution to hold qualifying examinations under section 22 shall be withdrawn and the said body or institution] shall not be authorized to hold a qualifying examination :

Provided that before any direction [4][for the withdrawal of the recognition of any body or institution] is made under this section, [5][the Faculty shall require the body or institution] to take steps within such time as it thinks fit to provide that the course of study and examinations prescribed [6][by the body or institution are] of an adequate standard.

Exemption from serving on inquests.

24. Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, 1898. V of 1898.

Fees payable to members of Board [and the Faculty].

25. There shall be paid to the members of the Board [7][and the Faculty] such fees and allowances for attendance and such reasonable travelling allowances as shall from time to time be prescribed by rules. V of 1898.

Fees received by Board [7][and the Faculty].

26. All moneys received by the Board [7][and the Faculty] as fees under this Part shall be applied for the purposes of this Part in accordance with the rules.

Annual list of practitioners.

27. (*1*) The Registrar shall [8][at least once in every five years] on or before a date to be fixed by the Board, cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the Register and the dates when such qualifications were acquired.

(*2*) In any proceeding it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner.

28. [*False assumption of degree or diploma to be an offence.*] *Repealed by Bom. 33 of 1949, s. 28.*

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[1] These words were substituted for the words "the Board" by Bom. 33 of 1949, s. 24.

[2] This portion was substituted for the words "of the institutions specified in the notification under section 22", *ibid.*

[3] This portion was substituted for the original, *ibid.*

[4] These words were substituted for the words "for the removal of an institution from the said notification", *ibid.*

[5] These words were substituted for the words "the Board shall require the institution", *ibid.*

[6] These words were substituted for the words "by the institution are", *ibid.*

[7] These words were inserted, *ibid.*, ss. 25 and 26.

[8] These words were substituted for the words "in every year", *ibid.*, s. 27.

[1][28A. (*1*) The Faculty may, with the previous sanction of the Provincial Government, make by-laws not inconsistent with this Part or the rules for the following matters, namely :— By-laws.

(*a*) the course of study for training and qualifying examinations ;

(*b*) the language in which the examinations shall be conducted and instruction shall be given ;

(*c*) the admission of students to the recognised institutions ;

(*d*) the conditions under which students shall be admitted to degrees, diplomas, licence or certificate's course and to the qualifying and prior examinations ;

(*e*) the conditions of appointment of examiners and the conduct of examinations ;

(*f*) the conditions for the recognition of teachers in recognised institutions ;

(*g*) the requirements for the recognition of teaching institutions ;

(*h*) such other matters as may be necessary for the exercise of powers and performance of functions to be exercised or performed by the Faculty under this Act.

(*2*) All by-laws shall be published in the *Official Gazette*.

(*3*) The Provincial Government may by notification in the *Official Gazette* cancel any by-law :

Provided that in submitting by-laws for the sanction the Provincial Government under this section the Faculty shall send a copy of it's proceedings relating to the passing of such by-laws and shall state the number of its members representing either system of Indian medicine who have voted for or against such by-laws or not voted in respect of such by-laws :

Provided further that in sanctioning the said by-laws due consideration shall be given to the opinion of the members of either system of Indian medicine as expressed in the said proceedings.]

29. (*1*) The Provincial Government may, after previous publication, make rules to carry out all or any of the purposes of this Part. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules for any of the following matters :—

(*a*) the time at which and the place and manner in which election shall be held under section 5 ;

(*b*) the manner in which vacancies shall be filled under section 7 ;

(*c*) the manner in which the meetings of the Board [2][and the Faculty] shall be convened and held ;

(*d*) the salary, allowances and other conditions of service of the Registrar under section 14 ;

(*e*) the form of the Register and the particulars to be entered therein under section 15 ;

(*f*) fees chargeable for the alteration of entries in the Register ;

[1] This section was inserted, by Bom. 33 of 1949, s. 29.
[2] These words were inserted, *ibid.*, s. 30.

(*g*) the manner in which appeals against the decision of the Registrar shall be heard by the Board under section 17 ;

(*h*) the application of fees ;

(*i*) fees and other allowances payable to members of the Board [1][and the Faculty] under section 25 ;

[2][(*ii*) the manner in which and the conditions subject to which the name of a practitioner can be entered in the Register or list on payment of renewal fee under section 18A ;]

(*j*) the furtherance of any of the objects of [3][this Part] ;

[2][(*k*) the manner in which inquiry shall be made under sub-section (*2*) of section 31C].

Regulations.

30. (*1*) The Board may, with the previous sanction of the Provincial Government make regulations not inconsistent with this Part or the rules for any of the following matters, namely :—

(*a*) the time and place at which the Board shall hold its meetings under section 12 ;

(*b*) the salary, allowances and other conditions of service of officers and servants of the Board other than the Registrar, under section 14 ;

[4]* * * * * *

(*h*) all other matters which may be necessary for the purposes of carrying out the objects of this Part.

(*2*) All regulations shall be published in the *Official Gazette*.

(*3*) The Provincial Government may by notification in the *Official Gazette* cancel any regulation.

[5]* * * * * *

Control of Provincial Government.

31. If at any time it shall appear to the Provincial Government that the Board [6][or the Faculty] has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Part or has failed to perform any of the duties conferred upon it by or under this Part, the Provincial Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Board [6][or the Faculty, as the case may be], and if the Board [6][or the Faculty] fails to remedy such default, excess or abuse, within such time as the Provincial Government may fix on this behalf, the Provincial Government may dissolve the Board [6][or the Faculty, as the case may be] and cause all or any of the powers and duties of the Board [6][or the Faculty, as the case may be], to be exercised and performed by such person and for such period not exceeding two years as it may think fit.

Registration Tribunal.

[7][**31A.** (*1*) For the purposes of facilitating refugees and persons residing in the areas included in the Province of Bombay under the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, and in the area jurisdiction over which has been transferred to the Government of Bombay under the Extra-Provincial Jurisdiction Act, 1947, and some other persons, to have their names in the Register or list under the provisions of this Act, the Provincial Government shall, by notification in the *Official Gazette*, constitute a Registration Tribunal. XLVII of 1947.

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[1] These words were inserted by Bom. 33 of 1949, s. 30.
[2] This clause was inserted, *ibid.*
[3] These words were substituted for the words "the Board", *ibid.*
[4] Clauses (*c*) to (*g*) were deleted, *ibid.*, s. 31.
[5] The two provisos were deleted, *ibid.*, s. 31.
[6] These words were inserted, *ibid.*, s. 32.
[7] Sections 31A, 31B and 31C were inserted, *ibid.*, s. 33.

(*2*) The said Tribunal shall consist of three members, one of whom shall be elected by the Board from amongst its own members and two shall be elected by the Faculty from amongst its members.

(*3*) The members so elected shall select their own Chairman. If the members or the majority of them are unable to make the selection of the Chairman, the Provincial Government shall nominate one of them to act as the Chairman.

(*4*) The provisions of sections 12 and 13 shall *mutatis mutandis* apply to the time and place of the meeting of the Tribunal and the procedure to be followed at the meeting.]

[1][**31B.** The Provincial Government shall, by notification in the *Official Gazette*, appoint a date on or before which application for registration or entry in the list shall be made to the Registration Tribunal. Such application shall be accompanied by a fee of Rs. 10.] Application for registration.

[1][**31C.** (*1*) The Registration Tribunal shall examine the applications received on or before the date appointed and after making such inquiry as it thinks fit shall, if the applicant is either— Power of Registration Tribunal to enter names in Register or list.

(*a*) a refugee, or

(*b*) a person residing in the area which is included in the Province of Bombay under the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, or in the area the jurisdiction over which has been transferred under the Extra Provincial Jurisdiction Act, 1947,

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direct the entry of the names to be entered on the Register or list in accordance with the following rules :—

(*i*) If the applicant holds a diploma of having passed any of the examinations specified in the Schedule, the name of such applicant shall be entered in the Register ;

(*ii*) If the applicant has been in regular practice as a practitioner for a period not less than five years preceding the date on which he makes the application, his name shall be entered in the list ;

(*iii*) If the applicant has been in regular practice as a practitioner for a period not less than two years preceding the date on which he makes the application, his name may be provisionally entered in the list, but shall be removed from the list, if within a period of five years from the aforesaid date he fails to pass the final qualifying examination.

(*2*) The Registration Tribunal may also after making such inquiry as may be prescribed by rules direct the name of any other person, whether residing in the Province or elsewhere, whose name has not been entered in the Register or list, but who was in regular practice on the 4th November 1941 of any system of medicine, surgery or midwifery or any of the branches to be entered in the Register or list, provided that such person proves to the satisfaction of the Registration Tribunal that for sufficient and adequate reasons his name could not be entered in the Register or list.

(*3*) The decision of the Registration Tribunal under sub-sections (*1*) and (*2*) shall be final and conclusive.]

[1] Sections 31A, 31B and 31C were inserted by Bom. 33 of 1949, s. 33.

PART II.

MEDICAL PRACTITIONERS GENERALLY.

Medical practitioners not registered under this Act or under Bom. VI of 1912 not to practise, etc.

32. No person other than (*i*) a practitioner registered under Part II of this Act or (*ii*) a medical practitioner registered under the Bombay Medical Act, 1912, or (*iii*) a person whose name is entered in the list mentioned in section 18 shall practise or hold himself out, whether directly or by implication, as practising for personal gain any system of medicine, surgery or midwifery : Bom. VI of 1912.

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that the provisions of this section shall not apply to any class of persons or in any specified area.

Medical practitioner not registered under this Act or under Bom. VI of 1912 not to sign birth or death certificate, etc.

33. Notwithstanding anything in any law for the time being in force, no person other than a practitioner registered under Part II of this Act or a medical practitioner registered under the Bombay Medical Act, 1912,— Bom. VI of 1912.

(*a*) shall sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner ;

(*b*) shall sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner ; or

(*c*) shall be qualified to give evidence at any inquest or in any Court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to medicine, surgery or midwifery. I of 1872.

Penalty.

34. Any person who acts in contravention of the provisions of section 32 shall, on conviction, be punishable with fine which may extend to Rs. 100 for the first offence and to Rs. 500 for every subsequent offence after his conviction for such first offence.

Conferring, granting or issuing colourable imitations of degrees, diplomas or licences to be an offence.

35. (*1*) No person other than a body or institution authorized under section 22 of this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma or licence which is identical with or is a colourable imitation of any degree, diploma or licence granted by a body or institution authorized under this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, as the case may be. VII of 1916. Bom. VI of 1912. VII of 1916. Bom. VI of 1912.

(*2*) Whoever contravenes the provisions of this section shall, on conviction, be punishable with fine which may extend to Rs. 1,000 and if the person so contravening is an association every member of such association who knowingly or wilfully authorizes or permits the contravention shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

[1][35A. (*1*) No person shall add to his name any title, description, letters or abbreviations which imply that he holds a degree, diploma, licence or certificate as his qualification to practise any system of medicine unless— Prohibition against addition of any title, description, etc., to name of any person, unless authorized to do so.

(*a*) he actually holds such degree, diploma, licence or certificate; and

(*b*) such degree, diploma, licence or certificate—

(*i*) is recognised by any law for the time being in force in India or in any part thereof, or

(*ii*) has been conferred, granted or issued by a body or institution referred to in section 35, or

(*iii*) has been recognised by the Medical Council of India, or

(*iv*) in cases not falling under sub-clause (*i*), (*ii*) or (*iii*) has been conferred, granted or issued by an authority empowered or recognised as competent, by the Provincial Government to confer, grant or issue such degree, diploma, licence or certificate.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall be punished in the case of a first conviction with fine which may extend to two hundred and fifty rupees and in the case of subsequent conviction, with fine which may extend to five hundred rupees.]

36. Nothing in sections 32 and 34 shall apply to any person— Saving.

(*a*) who limits his practice to the art of dentistry, or

(*b*) who being a nurse, midwife or health visitor registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, or a Dai attends on a case of labour, or

Bom. VII. of 1935.

[2]* * * *

(*e*) who practises homœopathy [3][or any other therapeutical system (other than the system of the Western Medical Science or the Indian Systems of Medicine], provided that such person—

(*i*) has undergone a course of training in homoeopathy [3][or such other therapeutical system] for such period and in such institutions as may be prescribed by the Provincial Government and has passed an examination as may be prescribed by the Provincial Government; and

(*ii*) does not hold a degree, diploma or licence which is a colourable imitation of a degree, diploma or licence entitling any person to practise Western medical science under the Indian Medical Degrees Act, 1916, or any Indian system of medicine under this Act.

VII 1916.

[1] This section was inserted by Bom. 33 of 1949, s. 34.

[2] Clauses (*c*) and (*d*) were deleted, *ibid.*, s. 35.

[3] These words were inserted, *ibid.*

Liberty to practise in rural areas.

37. Notwithstanding anything contained in this Part, a person may practise medicine in any rural area—

(*i*) if he has commenced practice in any village in the said area prior to a date on which a practitioner registered under Part II of this Act or under the Bombay Medical Act, 1912, has commenced and is in regular practice of medicine in the said village, and Bom. VI of 1912.

(*ii*) so long as he continues to practise in the said village as his principal place of practice.

Explanation.—For the purposes of this section, "rural area" means an area which is not within the limit of a municipality, cantonment or notified area committee.

Court competent to try offences under this Act and cognizance of offences.

38. (*1*) No Court other than the Court of a Presidency Magistrate or of a Magistrate of the First Class shall take cognizance of or try an offence under this Act.

(*2*) No Court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by the Provincial Government in this behalf.

Indemnity to persons acting under the Act.

39. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or regulations.

[1][*Schedule.*

(*1*) Ayurvedvisharad (D. A. S. F.) of the State Faculty for Ayurvedic System of Medicine.

(*2*) Mahire-tib-o-Jarahat (D. U. S. F.) of the State Faculty for Unani System of Medicine.

(*3*) Mahire-tib-o-Jarahat of the Board of Examiners in Unani obtained during 1942 and 1943.

(*4*) Ayurvidya-visharad of the Tilak Maharashtra Vidyapeeth, Poona, before 1944.

(*5*) Ayurvedteerth of Ayurved Mahavidyalaya, Ahmednagar, held before 1942.

(*6*) Ayurvedvisharad of Aryangla Vaidyak Mahavidyalaya, Satara, before 1942.

(*7*) Grihit Ayurvedshastra (L.A.M.) of U. P. Ayurved Mahavidyalaya, Patan (Baroda State), before 1942.

(*8*) Ayurvedacharya either with Medicine and Surgery or with Modern Medicine and Surgery of the Benares Hindu University, Benares.

(*9*) Fazil-e-tib-o-Jarahat and Kamil-e-tib-o-Jarahat of the Ayurvedic and Unani Tibbi College, Delhi.

(*10*) Licentiate of Indian Medicine of the Board of Examiners in Indian Medicine, Madras.

(*11*) Ayurvidya Parangat of the Tilak Maharashtra Vidyapeeth.]

[1] This Schedule was inserted by Bom. 33 of 1949, s. 36.